

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

OSAMA MUFTI,

Plaintiff,

v.

FIGUS TRUCKING, INC. and KANIA
EXPRESS, INC.,

Defendants.

No. 1:19-cv-938

Judge John Z. Lee

Magistrate Judge Sidney I. Schenkier

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Introduction

1. This is an action for unpaid minimum wages brought pursuant to the federal Fair Labor Standards Act, 29 U.S.C. 201 *et seq.* and for unpaid final wages brought pursuant to the Illinois Wage Payment and Collection Act, 820 ILCS 115/5.

Jurisdiction and Venue

2. This Court has jurisdiction because plaintiff has asserted a claim arising under federal law pursuant to the federal Fair Labor Standards Act, 29 U.S.C. section 201 *et seq.* ("FLSA"). Accordingly, this Court has jurisdiction over the subject matter of this action under 29 U.S.C. section 216(b) and 28 U.S.C. section 1331. The Court has supplemental jurisdiction over plaintiff's state law claim pursuant to 28 U.S.C. section 1367.
3. Venue is proper in this District because the unlawful employment practices described herein were committed in the Northern District of Illinois and all parties

are residents of the Northern District of Illinois. Venue in the Northern District of Illinois is proper pursuant to 28 U.S.C. section 1391(b).

Parties

4. Plaintiff Osama Mufti is an Illinois resident who resides in the Northern District of Illinois and was employed by defendants Figus Trucking, Inc. and Kania Express, Inc. as a truck driver from approximately January, 2018 to approximately August, 2018.
5. Defendant Figus Trucking, Inc. is an Illinois corporation with headquarters and facilities in the Northern District of Illinois.
6. Defendant Kania Express, Inc. is an Illinois corporation with headquarters in the Northern District of Illinois. On information and belief, Kania Express, Inc. operates as an agent of Figus Trucking, Inc.

Facts

7. Plaintiff Osama Mufti was an employee of defendants Figus Trucking, Inc. and Kania Express, Inc. Defendants owned the trucks that plaintiff was assigned to drive, dictated the time and location that plaintiff was to pick up loads, and dictated the locations that plaintiff was to deliver loads.
8. Plaintiff was an individual employee of defendants engaged in interstate commerce as required by 29 U.S.C. section 206.
9. At all times relevant hereto, defendants were each an employer or joint employer of plaintiff within the meaning of Section 3(d) of the FLSA, 29 U.S.C. section 203(d). Each of the defendants has been an enterprise engaged in interstate

commerce within the meaning of Section 3(s)(1) of the FLSA, 29 U.S.C. section 203(s)(1).

10. Defendants failed to pay plaintiff Osama Mufti for his final week of work, pay due equal to approximately \$856.58. By failing to pay for that work, defendants failed to pay plaintiff the minimum wage required by the Fair Labor Standards Act and violated the provisions of the Wage Payment and Collection Act.
11. In addition, when plaintiff Osama Mufti ended his employment with defendants, they failed to pay him for approximately \$2,500 deducted from his wages as an escrow amount. By failing to pay plaintiff this money defendants violated the provisions of the Illinois Wage Payment and Collection Act.
12. At all times relevant hereto, the Illinois Wage Payment and Collection Act, 820 ILCS 115/14, has provided that an employer that fails to pay final wages to an employee shall owe, in addition to those wages, an amount equal to two percent (2%) of those wages for every month they are unpaid.

Count I – Violation of the FLSA

13. Plaintiffs re-alleges and incorporates paragraphs 1-12 above as paragraphs 1-12 of this Count I.
14. By failing to pay plaintiff the minimum wage required by the FLSA, defendants violated the provisions of the FLSA, 29 U.S.C. section 206(a).
15. Defendants' failure to pay plaintiff the minimum wage was a willful violation of the FLSA.

Count II – Violation of the Illinois Wage Payment and Collection Act

16. Plaintiff re-alleges and incorporates by reference paragraphs 1-15 as paragraphs 1-15 of this Count II.
17. By failing to pay the final wages due to plaintiffs, defendants have violated and are violating the provisions of the Illinois Wage Payment and Collection Act, 820 ILCS 115/5.

WHEREFORE, plaintiff Osama Mufti prays for judgment against defendants Figus Trucking, Inc. and Kania Express, Inc. for damages consisting of:

- a. Unpaid minimum wages required by the FLSA;
- b. An equal amount owed as liquidated damages;
- c. Unpaid final wages in an amount of approximately \$3,356.58;
- d. Two percent (2%) of those unpaid final wages for each month that they have gone unpaid;
- e. Pre-judgment and post-judgment interest;
- f. Reasonable attorney's fees and costs;
- g. Such other relief as the Court shall find just.

Plaintiff demands a trial by jury.

By: /s/ Paul Strauss

Attorney for plaintiff Osama Mufti

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